

Draft
PUBLIC DEFENDER COMMISSION
Minutes
Monday, October 3 and Tuesday, October 4, 2005
State Bar of Montana Conference Room, Helena

Monday, October 3

The Commission met at the Uptown Café at 6:00 P.M. for dinner. Three potential offices – the Finlin Hotel, the Hennessy Building and the New York Life Building – were toured following dinner. Beth Brenneman, MT Advocacy Program, accompanied the tour to review ADA compliance for each of the buildings. The tour concluded at approximate 9:00. Tara Veazey, Don Donovan and Stephan Nardi were unable to attend.

Tuesday, October 4

Members Present:

Betty Bichsel, Edgar, Daniel Donovan, Great Falls, Caroline Fleming, Miles City, Jennifer Hensley, Butte, Wendy Holton, Helena, Doug Kaercher, Havre, Stephen Nardi, Kalispell, James Park Taylor, Pablo, Mike Sherwood, Missoula, Tara Veazey, Helena, Theda New Breast, Babb

Members Absent:

None

Other Interested Parties:

Don Judge, Teamsters Local 190; Beth Brenneman, MT Advocacy Program; Scott Crichton, ACLU; Chad Wright, Appellate Defender Office; Don Kinman, AFSCME MT #9; Robyn Rowe, AFSCME MT #9; Judge Krueger, Butte-Silver Bow District Court; Jim Oppedahl, Court Administrator (via video conference); Bernie McCarthy, Montana State Bar; Steve Bender, DOA.

Call to Order:

The Public Defender Commission meeting was called to order at 8:10 A.M. by Chairman Jim Taylor.

Adoption of Agenda:

Motion and Vote: Jim Taylor made a motion to add two items to the agenda: a report from Tara Veazey on her trip to the NLDA Leadership Conference and the hiring of administrative staff. The motion was seconded by Steve Nardi and carried unanimously.

Closed Session to Conduct Interviews

At approximately 8:20 A.M. Jim Taylor closed the meeting to the public to prepare for and conduct interviews of Bill Hooks, Ed Sheehy and Randi Hood.

Open Meeting to Public

At 3:00 P.M. Jim Taylor reopened the meeting to the public.

Approval of Minutes from the August 26, 2005 Meeting:

The draft minutes were corrected for confusion in references between Steve Nardi and Steve Bender; and to correct references to Caroline Fleming.

Motion and Vote: With the above corrections noted, the minutes were approved unanimously.

Report on Tara Veazey's NLDA Leadership Trip

Tara reported the conference focused on leadership skills that, while good personally, offered little assistance in the Commission's tasks. She noted it would be good for the chief to attend in the future. Tara noted that she meet a lot of people and developed good contacts across the nation. Many were aware of Montana's new system and expressed concern about the aggressive timelines; and suggested the Office pay attention to and manage expectations.

Hiring of Administrative Director

Jim Taylor offered a motion to begin the hiring process for the Administrative Director position. Mike Sherwood seconded the motion, which was approved unanimously.

Open Public Comment Period

Judge Krueger Comments

Judge Krueger welcomed the Commission to Butte and expressed he was pleased the Office was located in Butte. He noted his and Butte's willingness to help the Commission and Office and a brief history of the courthouse; noting substitution law was born in the building.

Judge Krueger asked to address the Commission to suggest a regional office located in Butte. A regional office would probably be cheaper than the equivalent of 3-4 contracted public defenders.

Judge Krueger introduced the court's video conferencing capabilities at the request of the Court Administrator. Video conferencing is being deployed in various courts

throughout the state. Judge Krueger noted some of the benefits of video conferencing, including its ability to connect attorneys from more urban areas with rural clients and suggested these capabilities be included in the design of the new system.

A question/answer period followed the introduction to video conferencing.

Mike Sherwood asked whether the suggestion for a Butte regional office was coming from the bench or attorneys with a public defender caseload. Judge Krueger replied was primarily coming from the bench; attorneys are mixed. A Butte office would provide more effective and cost efficient representation.

Dan Dovovan asked the Judge about the support (services) for the current appointed counsel. Judge Krueger explained that motions for additional services are presented to the court. The presiding judge approves of the services then pays for the support.

Tara Veazey noted that legal services uses video conferencing and offered some of its benefits. She noted it is not ideal for all circumstances, but offers benefits where alternative arrangements are too cost prohibitive otherwise, and for training and staff meetings.

Jim Taylor asked how many lines (sites) can be included in a session. Judge Krueger explained 4 lines are the maximum before quality begins to suffer. He went on to explain their use including: initial appearances from jail and Warm Springs hearings are all done by video conferencing in Butte. Its use saves time and resources.

Jim Oppedahl, Court Administrator, appeared on video from his Helena office to demonstrate its capabilities. He explained it is available in 31 courts throughout the state, the Court Administrator's Office and throughout the Supreme Court's operations. The Attorney General, Law Enforcement Academy and the forensic office in Missoula have sites.

Oppedahl explained their use. They use the technology to improve access and effectiveness; uses to save taxpayer funds. It offers on way to keep public defender staff productive (vs. driving) including hearings and team meetings. Judge Krueger offered an example of the savings for a Glendive hearing.

Jim Taylor asked whether the system is secure. Oppedahl answered transmissions are encrypted and no one can join a session without someone knowing. Jim followed up on whether the sessions were recorded. Judge Krueger explained the sessions can be recorded using DVD and video recordings, and they record expert witnesses, which can be presented to a jury to avoid special travel and expert witness fees. The technology offers a multitude of opportunities and can be used to connect location throughout the world.

Oppedahl offered the Commission free use of the system for a year. Various questions ensued about the cost and availability.

Beth Brenneman, MT Advocacy Program

Beth briefed the Commission on her review of each potential office's ADA compliance. She note that each office had ADA issues with their bathrooms; ADA stalls too narrow. Some building had parking issues – reserved handicap spots. She spoke with each of the potential landlords, who promised to address the ADA issues should their location be selected.

Gary Harrington, Butte Chamber

Gary introduced himself and welcomed the Commission to Butte. He offered any help he could provide.

Don Judge, Teamsters

Don asked whether all Commissioners received his letter and a copy of the Yellowstone County contract. Commissioners received his correspondence. He went on to note he was attempting to get a copy of Missoula's contract. Jim asked when the current contacts end. Dan answered 2006. Don went on to note there maybe some conflicts between the 4% salary cap and actual employee pay; negotiated longevity allowance may place some employees over the 4% cap. Don explained he will attempt to talk to the chair of the legislative committee regarding intent; and may propose the special session fix any problem language.

Chad Wright, Appellate Defender Office

Chad introduced himself to the Commission and noted his submitted written comments. The Commission used this opportunity to ask Chad about various subjects including appropriate staffing, qualifications, interactions between public and appellate defenders and the types of problems they see through their appeal cases.

Don Kinman, AFSCME MT #9

Don introduced himself as a union representative and noted the good work of the Commission.

Bernie McCarthy, State Bar

Bernie introduced himself as representing the State Bar.

Scott Crichton, Montana ACLU

Scott introduced himself and his involvement with the Act. He offered his suggestions, noting the work is just beginning and the need for the Commission to pace its activities

given legislative interest and the big job at hand. He noted the legislation succeeded because all parties worked together and that equal access is a non-partisan issue. He expressed his willingness to help with awareness, given the importance of including all corners of Montana in the design of the new system.

Butte Office Selection

The Chair opened a discussion among the Commission regarding the office tour and their individual reactions/recommendations. Each member was offered an opportunity to comment. The majority of the Commission favored the Finlin, citing it's relatively low cost, location and setting. Lack of windows and natural lighting was a concern that tipped some to favor the New York Life Building.

The Commission agreed to allow the new chief the opportunity to view the Finlin and New York Life buildings and comment. The Commission approved and provided a one-week window to visit the offices with a follow-up conference call to discuss and make a final decision.

Future Meetings

The Commission agreed on the schedule and location for the next two meetings. A meeting will be scheduled for November 14th in Billings. The following meeting will be December 9th in Butte.

Meeting Closed to Discuss Interviews and Make Decision

The Chair closed the meeting to discuss the interviews and reach a hiring decision.

Meeting Reopened for Announcement

At approximately 6:30 P.M. the chair reopened the meeting to the public to announce the hiring decision. Randi Hood was announced as the selection and the Chair personally called her to extend the offer. It was accepted.

Meeting Adjourned